

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:19-00307

JAMES WALKER, et al.

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant Alonzo Wooden's motion to continue the trial and related deadlines. (ECF No. 69). In support of the motion and the need for a continuance, counsel for the defendant contends that he has been unable to go over discovery with his client given the COVID-19 pandemic. Defendant Wooden resides in Pennsylvania.

The impact of the pandemic is well-documented and, in order to lessen the spread of the disease, a number of measures have been instituted in this court, including the delay of criminal matters. See General Order and General Order # 3 entered in In Re: Court Operations Under the Exigent Circumstances Created by the COVID-19 Pandemic, No. 2:20-mc-00052 (S.D.W. Va. March 13, 2020 and March 23, 2020) (Johnston, C.J.). Finally, both the Governors of West Virginia and Pennsylvania have issued stay-at-home orders to lessen the spread of COVID-19.

In ordering the continuance of defendant's trial and related deadlines in this matter, the court finds that, due to the current danger to the public health caused by COVID-19, the ends of justice served by ordering the continuance outweigh the best

interest of the defendant and the public in a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A). In so finding, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that a failure to order this continuance "would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice." Id. § 3161(h)(7)(B)(i).

Accordingly, the court hereby **GRANTS** the motion to continue and **ORDERS** as follows:

1. Trial of this action is continued until May 27, 2020, at 9:30 a.m., in Bluefield. Jury instructions and proposed voir dire are to be filed by May 20, 2020;
2. Pretrial motions must be filed by May 12, 2020;
3. A pretrial motions hearing is scheduled for May 19, 2020, at 10:00 a.m., in Bluefield; and
4. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.¹

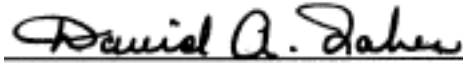
The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States

¹ The court notes that, for purposes of determining compliance with the Speedy Trial Act, "in cases involving multiple defendants only one speedy trial clock, beginning on the date of the commencement of the speedy trial clock of the most recently added defendant, need be calculated under 18 U.S.C. § 3161(h)(7)." United States v. Piteo, 726 F.2d 50, 52 (2d Cir. 1983); see also United States v. Walker, Nos. 95-5914, 96-4247, 96-4110, 1997 WL 358770, *3 (4th Cir. June 30, 1997) (quoting Piteo).

Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 6th day of April, 2020.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge